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Rock A. Gagnebin

9173

4439

7590
John M. Harrison
2139 E. Bert Kouns
Shreveport, LA 71105

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EXAMINER

BRADEN, SHAWN M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,928	Applicant(s) GAGNEBIN, ROCK A.	
	Examiner SHAWN M. BRADEN	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/22/2008</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gray (USPN 7,273,155).

3. With respect to claim 1 Gray shows a liner (17) disposed for placement in said container and receiving a trash bag (I), wherein at least one dimension of said liner is smaller than the corresponding dimension of said container, to form an annulus (clearly shown) between said liner and said container; at least one elongated vertical opening (53) provided in said liner, said opening communicating from the interior of said liner to said annulus; and a vacuum-producing device (95) provided on said container, said vacuum-producing device communicating with said annulus, wherein a vacuum is created in said liner and the trash bag (I) is deployed against said liner responsive to operation of said vacuum-producing device.

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4. With respect to claim 2, Gray shows at least one opening (53) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner (fig. 4).
5. With respect to claim 3, Gray shows said container is defined by a container wall and a container bottom closing one end of said container wall and wherein said vacuum-producing device is provided on said container bottom (fig. 4).
6. With respect to claim 4, Gray shows said at least one opening (53) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner (fig. 2).
7. With respect to claim 7, Gray shows said at least one opening (53) comprises at least two slots provided in said liner (fig. 4).
8. With respect to claim 8, Gray shows a perforated container lid (16) for removably closing said liner and said container and wherein said container is defined by a container wall, a container bottom closing one end of said container wall and a container flange (clearly shown fig. 1A) extending around the opposite end of said container wall and said liner is defined by a liner (17) wall, a liner (16) bottom closing one end of said liner wall, said liner bottom spaced (clearly shown in fig. 1a) from said container bottom to define said annulus and a liner flange (clearly shown) provided on the opposite end of said liner wall from said liner bottom, said liner flange engaging said container flange (by container sidewall) for removably receiving said container lid and wherein said vacuum-producing device is mounted on said container bottom (fig. 1A).

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9. With respect to claim 10, Gray shows a container having a container wall, a container flange provided on one end of said container wall and a container bottom provided on the opposite end of said container wall from said container flange, a liner (17) disposed for placement inside said container; a liner flange provided on one end of said liner for engaging said container flange on said one end of said container wall when said liner is placed in said container and at least one opening (53) provided in said liner, a perforated container lid (16) for removably engaging said liner flange (by way of the sidewall) and closing said liner and said container, a liner (17) bottom provided in said liner, said liner bottom spaced from said container bottom to define an annulus, and an air blower (95) provided on said container bottom, said air blower having a blower suction extending through said container bottom and communicating with said annulus and a blower discharge located outside of said container (figs. 9,10), wherein a vacuum is created in said liner at the trash bag (1) responsive to operation of said air blower.

10. With respect to claim 11, Gray shows said at least one opening (53) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner (fig. 4).

11. With respect to claim 12, Gray shows a container having a perforated lid; a liner (17) disposed for placement in said container and receiving a trash bag, wherein the dimensions of said liner are smaller than the dimensions of said container to form an annulus between said liner and said container, a plurality of vertical elongated slots (53) provided in said liner, said slots (53) communicating

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from the interior of said liner to said annulus; and an air blower (95) mounted on said container, said air blower having a blower suction extending through said container and communicating with said annulus and a blower discharge located outside of said container, wherein a vacuum is created in said liner at the trash bag (1) responsive to closing of said lid over said container and said liner and operation of said blower to transfer air from said liner and said annulus through said blower suction, to said blower discharge of said blower (figs.9-10).

12. With respect to claim 13, Gray shows said slots (53) provided in spaced-apart relationship with respect to each other in said liner.

13. With respect to claim 14, Gray shows said container is defined by a container wall and a container bottom closing one end of said container wall and wherein said air blower (95) is provided on said container bottom and said suction of said air blower extends said annulus.

14.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7 ,8 ,10-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Millasch (USPN 5,143,242) in view of Martin (USPN 3,815,778).

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16. Millasich discloses the invention substantially as claimed. With respect to claim 1, Millasich shows a liner (19) disposed for placement in said container and receiving a trash bag (15), wherein at least one dimension of said liner is smaller than the corresponding dimension of said container, to form an annulus (area of 21) between said liner and said container; at least one opening (20) provided in said liner, said opening communicating from the interior of said liner to said annulus; and a vacuum-producing device (18) provided on said container, said vacuum-producing device communicating with said annulus, wherein a vacuum is created in said liner and the trash bag (15) is deployed against said liner responsive to operation of said vacuum-producing device.

17. With respect to claim 2, Millasich shows at least one opening (20) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner.

18. With respect to claim 3, Millasich shows said container is defined by a container wall and a container bottom closing one end of said container wall and wherein said vacuum-producing device is provided on said container bottom (fig. 3).

19. With respect to claim 4, Millasich shows said at least one opening (20) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner (fig. 2).

20. With respect to claim 7, Millasich shows said at least one opening (20) comprises at least two slots provided in said liner (fig. 2).

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21. With respect to claim 8, Millasich shows a perforated container lid (22) for removably closing said liner and said container and wherein said container is defined by a container wall, a container bottom (13) closing one end of said container wall and a container flange (clearly shown on 11) extending around the opposite end of said container wall and said liner is defined by a liner (19) wall, a liner (19) bottom closing one end of said liner wall, said liner bottom spaced (clearly shown in fig. 1) from said container bottom to define said annulus and a liner flange (near the periphery of 19) provided on the opposite end of said liner wall from said liner bottom, said liner flange engaging said container flange (by container sidewall) for removably receiving said container lid and wherein said vacuum-producing device is mounted on said container bottom (fig. 3).

22. With respect to claim 10, Millasich shows a container having a container wall, a container flange provided on one end of said container wall and a container bottom provided on the opposite end of said container wall from said container flange, a liner (19) disposed for placement inside said container; a liner flange provided on one end of said liner for engaging said container flange on said one end of said container wall when said liner is placed in said container and at least one opening (20) provided in said liner, a perforated container lid (22) for removably engaging said liner flange (by way of the sidewall) and closing said liner and said container, a liner (19) bottom provided in said liner, said liner bottom spaced from said container bottom to define an annulus (the space near 21), and an air blower (18) provided on said container bottom, said air blower having a blower suction extending through said container bottom and

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communicating with said annulus and a blower discharge located outside of said container (fig. 3), wherein a vacuum is created in said liner at the trash bag (15) responsive to operation of said air blower.

23. With respect to claim 11, Millasich shows said at least one opening (20) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner (fig. 2).

24. With respect to claim 12, Millasich shows a container having a perforated lid; a liner (19) disposed for placement in said container and receiving a trash bag, wherein the dimensions of said liner are smaller than the dimensions of said container to form an annulus between said liner and said container, at least one opening (20) provided in said liner, said opening communicating from the interior of said liner to said annulus; and an air blower (18) mounted on said container, said air blower having a blower suction extending through said container and communicating with said annulus and a blower discharge located outside of said container, wherein a vacuum is created in said liner at the trash bag (15) responsive to closing of said lid over said container and said liner and operation of said blower to transfer air from said liner and said annulus through said blower suction, to said blower discharge of said blower (fig.3).

25. With respect to claim 13, Millasich shows said at least one opening (20) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner.

26. With respect to claim 14, Millasich shows said container is defined by a container wall and a container bottom closing one end of said container wall and

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wherein said air blower (18) is provided on said container bottom and said suction of said air blower extends said annulus.

27. With respect to claim 15, Millasich shows said at least one opening (20) comprises a plurality of openings provided in spaced-apart relationship with respect to each other in said liner (fig. 2).

However Millasich does not disclose elongated vertical openings provided in the liner, and that the openings are a plurality of vertical elongated slots, and that the slots are in spaced-apart relationship with respect to each other in said liner.

Martin teaches elongated vertical openings (15) and that the openings are a plurality of vertical elongated slots (fig. 1) and that the slots are in spaced-apart relationship with respect to each other in said liner in the same field of endeavor for the purpose of allowing air to pass between liner and the bag.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add elongated vertical openings to the liner of Millasich as taught by Martin in order to better vent the space between the liner and the bag.

Claim Rejections - 35 USC § 103

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,5,9,12,13,16,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millasich as applied to claim 1 or 12 in view of Brennan (USPN 6,554,151) in further view of Martin (USPN 3,815,778).

Millasich discloses the invention substantially as claimed. However Millasich does not disclose a vacuum-producing/blower device in the container wall.

Brennan teaches the placement of a vacuum producing device in the container wall with the vacuum represented by arrows shown on the cover in the same field of endeavor for the purpose of having the air entering from the side.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to move the vacuum producing device to the sidewall of the container in order to set the container flat on the ground instead of the stand (23).

However Millasich does not disclose elongated vertical openings provided in the liner, and that the openings are a plurality of vertical elongated slots, and that the slots are in spaced-apart relationship with respect to each other in said liner.

Martin teaches elongated vertical openings (15) and that the openings are a plurality of vertical elongated slots (fig. 1) and that the slots are in spaced-apart relationship with respect to each other in said liner, in the same field of endeavor for the purpose of allowing air to pass between liner and the bag.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to add elongated vertical openings to the liner of Millasich as taught by Martin in order to better vent the space between the liner and the bag.

Response to Arguments

29. Applicant's arguments with respect to claim 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN M. BRADEN whose telephone

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number is (571)272-8026. The examiner can normally be reached on Mon-Friday 9-6:30 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. B./
Examiner, Art Unit 3781

/Anthony D Stashick/
Anthony Stashick
Supervisory Patent Examiner, Art Unit
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